

### **Remarks**

Claims 1-20 were under Appeal. Prosecution was reopened in view of new grounds of rejection. The non-final Office Action dated March 21, 2007 reopens the prosecution and rejects all claims based on new grounds. Applicants respectfully request reconsideration of the rejection.

This paper amends claim 19 to correct the lack of an antecedent basis for the term “dedicated service” found by the Applicants. The term, as corrected, now is “dedicated circuit”. This amendment is not being made in response to any rejection or objection raised by the present Office Action.

### **Rejection under 35 U.S.C. 102**

The Office Action rejects Claims 1-8 and 19-20 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,043,541 to Bechtolsheim et al. Applicants respectfully request reconsideration of the rejection because Bechtolsheim does not disclose or suggest the Applicants’ claimed invention.

As set forth in representative independent claim 1, the Applicants’ invention includes generating a service performance report message at each of the service termination points. Each service performance report (SPR) message has service-specific information related to a performance of the service as determined by the service termination point generating that SPR message. Each SPR message identifies the service to which the service-specific information in that SPR message pertains. The SPR message generated by one of the service termination points is transmitted to the other service termination point over a service management channel to enable an assessment of the performance of the service based on the SPR messages from both service termination points.

By the above underlining, Applicants wish to emphasize that their claimed service management channel carries SPR messages pertaining specifically to the performance of a service. In the Applicants' specification, a service is described as "a guarantee of transport of customer-offered traffic with specific performance commitments." A service is to be distinguished from the transport facility (e.g., an optical path) that supports the service through the network.

Bechtolsheim discloses a method for conveying management information across a network. This management information relates to the optical transport facility, not to any specific service. More specifically, Bechtolsheim's method includes inserting a CDL (converged data link) header within the preamble of each packet. The CDL header carries network management information. This CDL information applies to a specific optical path. (Col. 7, line 67 to col. 8, lines 1-2, underlining added). In addition, the CDL header includes a message channel for carrying alarms and error messages. The CDL message channel allows network elements to send alarm messages indicating that the link between the network elements has failed (col. 10, lines 41-47, underlining added).

Missing from Bechtolsheim are the following claimed elements and limitations (paraphrased in pertinent part) of the Applicants' invention:

- (1) A service performance report (SPR) message generated at each termination point, each SPR message has service-specific information related to a performance of the service; and
- (2) each SPR message identifies the service to which the service-specific information in that SPR message pertains.

Therefore, unlike the Applicants' invention, Bechtolsheim's CDL messages do not contain service-specific information related to the performance of a service. Rather, Bechtolsheim's messages report about the performance of the optical transport facility (i.e., the links, the optical paths, and the switching equipment).

This is no small distinction. A service provider may be keenly interested in knowing how well the performance of the customer's service is faring compared to the specific performance commitments. Because the information in Bechtolsheim's messages is not specific to a service, but rather to the optical transport facility, a service provider can make no service-specific assessment from the information contained therein. True, the alarms and error messages conveyed by Bechtolsheim's CDL message channel may alert the service provider to, for example, a defective optical path, but these messages provide no express direct indication of which service, if any, the defective optical path is affecting. The defective optical path may be affecting none, one, or all of the service provider's supported services, but without service-specific information in those messages, there is no direct way to tell. In contrast, the Applicants' invention enables network administrators to determine how a given service is performing at each of the network elements because the information conveyed by the service management channel is service-specific and the messages identify the specific service to which they pertain.

Therefore, because Bechtolsheim fails to disclose or suggest a service management channel that carries messages with service-specific information related to a performance of the service and identifies that service, Applicants respectfully submit that Bechtolsheim does not anticipate or suggest the

Applicants' claimed invention. Consequently, Applicants respectfully request that the rejection be withdrawn.

**Rejection under 35 U.S.C. 103**

The Office Action rejects **Claims 10-18** under 35 U.S.C. §103(a) as being obvious over Bechtolsheim. Independent claim 10 recites language similar to that recited in independent claim 1 and, therefore, is patentably distinct over Bechtolsheim for those reasons provided in connection with claim 1. Specifically, Bechtolsheim does not disclose or suggest sending a message (over a service management channel) that convey service-specific information related to a performance of a service and identify the service to which the service-specific information in the message pertains, as set forth in the Applicants' independent claim 10. Claims 11-18 depend from patentable claim 10, and are therefore patentable for at least this reason. Applicants, therefore, respectfully request that the rejection be withdrawn.

The Office Action also rejects **Claim 9** under 35 U.S.C. §103(a) as being obvious over Bechtolsheim in view of U.S. Patent No. 7,000,149 to Chia et al. Chia discloses a loopback mechanism for testing the transmitter and receiver links of an I/O node. Chia, however, does not disclose or suggest sending a message that conveys service-specific information related to a performance of a service and identifies the service to which the service-specific information in the message pertains, as set forth in the Applicants' claimed invention. Therefore, Bechtolsheim and Chia, whether taken alone or in combination, do not disclose or suggest the Applicants' claimed invention. Therefore, Applicants respectfully request that the rejection be withdrawn.

**CONCLUSION**

In view of the arguments made herein, Applicants submit that the application is in condition for allowance and requests early favorable action by the Examiner.

If the Examiner believes that a telephone conversation with the Applicant's representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-2003.

Respectfully submitted,

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